

of the Seventeenth Legislature," having considered the same, beg leave to report the accompanying bill as a substitute for same, and recommend that it pass.

DUNCAN, Chairman.

Bill read first time.

On motion of Senator Duncan, the rules were suspended and bill placed upon its second reading by the following vote:

YEAS—29.

Buchanan of Grimes	Hightower,	Powers,
Buchanan of Wood,	Homan,	Rainey,
Burges,	Houston,	Stewart,
Burton,	Lair,	Stubbs,
Cooper,	Lane,	Swain,
Davenport,	Lightfoot,	Terrell,
Duncan,	Martin of Cooke,	Tilson,
Gooch,	Martin of Navarro,	Weatherred,
Harris,	Moore,	Wynne.
Henderson,	Patton,	

NAYS—1.

Shannon.

Bill read second time and ordered engrossed.

On motion of Senator Duncan, the rules were suspended and bill put upon its third reading by the following vote:

YEAS—28.

Buchanan of Grimes	Hightower,	Patton,
Buchanan of Wood,	Homan,	Rainey,
Burges,	Houston,	Shannon,
Burton,	Lair,	Stewart,
Cooper,	Lane,	Stubbs,
Davenport,	Lightfoot,	Swain,
Duncan,	Martin of Cooke,	Terrell,
Gooch,	Martin of Navarro,	Tilson,
Harris,	Moore,	Weatherred,
Henderson,		Wynne.

NAYS—none.

NOT VOTING—2.

Henderson, Powers.

Bill read the third time and passed by the following vote:

YEAS—28:

Buchanan of Grimes	Homan,	Rainey,
Buchanan of Wood,	Houston,	Shannon,
Burges,	Lair,	Stewart,
Burton,	Lightfoot,	Stubbs,
Cooper,	Martin of Cooke,	Swain,
Davenport,	Martin of Navarro,	Terrell,
Duncan,	Moore,	Tilson,
Gooch,	Patton,	Weatherred,
Harris,	Powers,	Wynne.
Hightower,		

NAYS—none.

NOT VOTING—2.

Henderson, Lane.

Pending business resumed, being Senate bill No. 15—Senator Lane's amendment pending.

Senator Cooper offered the following amendment to Senator's Lane's amendment:

And no such well shall be bored or constructed within a distance of ten miles of any other stock well." Lost.

The pending amendment of Senator Lane was then adopted by the following vote:

YEAS—24.

Buchanan of Grimes	Homan,	Patton,
Buchanan of Wood,	Houston,	Powers,
Burges,	Lair,	Stubbs,
Burton,	Lane,	Swain,
Cooper,	Lightfoot,	Terrell,
Davenport,	Martin of Cooke,	Tilson,
Duncan,	Martin of Navarro,	Weatherred,
Gooch,	Moore,	Wynne.

NAYS—6.

Harris,	Powers,	Shannon,
Hightower,	Rainey,	Swain.

The bill was then passed by the following vote:

YEAS—20.

Burges,	Lane,	Shannon,
Davenport,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Stubbs,
Harris,	Martin of Navarro.	Swain,
Homan,	Moore,	Terrell,
Houston,	Powers,	Tilson.
Lair,	Rainey,	

NAYS—9.

Buchanan of Grimes	Cooper,	Patton,
Buchanan of Wood,	Duncan,	Weatherred,
Burton,	Hightower,	Wynne.
	NOT VOTING.	
	Henderson.	

On motion of Senator Martin of Cooke the Senate adjourned until 10 o'clock A. M. to-morrow.

ELEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 22, 1881. }

Senate met pursuant to adjournment, Lieutenant-Governor Storey in the chair.

Roll called—quorum present.

Prayer by the Chaplain.

On motion of Senator Shannon, the reading of the journals of yesterday was dispensed with, and same adopted,

On motion of Senator Houston, Senator Homan was excused until Tuesday morning next.

On motion of Senator Burges, the Sergeant-at-arms, Captain Kyle, was excused until Tuesday next.

On motion of Senator Duncan, Senator Terrell was excused from the Senate during Monday next.

A message was received from the House announcing the passage of substitute Senate bill No. 9, "An act making an appropriation to defray the contingent expenses of the Seventeenth Legislature."

The President announced the complimentary presentation to the Senate of certain interesting documents by the "New Orleans Sanitary Association."

On motion of Senator Shannon, Senator Burton was excused for the day.

Senator Houston, chairman of Committee on Constitutional Amendments, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Constitutional Amendments, to whom was referred Senate joint resolution No. 9, entitled "A joint resolution amending article 6 of the Constitution of the State of Texas, relating to education and the public free schools," have had the same under consideration, and instruct me to report the same back, and recommend that it do not pass.

HOUSTON, Chairman.

Bill read first time.

Senator Lair, for the Committee on Public Health, moved that one hundred copies of Senate bill No. 52 be printed. Adopted.

Senator Davenport introduced a bill entitled "An act to procure from the publishing house owning the copyright, certain volumes of the early reports of the Supreme Court of the State." Referred to Judiciary Committee No. 1.

Senator Wynne introduced a bill entitled "An act to define who are officers of the State of Texas, and entitled to the salaries and fees of office." Referred to Committee on State Affairs.

Senator Stewart, chairman of Judiciary Committee No. 2, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 21, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2 beg leave to report that they have duly considered Senate bill No. 13, to be entitled "An act to regulate the

taking of testimony before grand juries in respect to criminal accusations of the grade of felony," and the committee instruct me to report the bill back to the Senate and to recommend that it do not pass.

STEWART, Chairman.

Senator Cooper submitted the following minority report:

COMMITTEE ROOM,
AUSTIN, January 22, 1881.

Hon. L. J. Storey, President of the Senate:

The undersigned, members of Judiciary Committee No. 2, to whom was referred Senate bill No. 13, to be entitled "An act to regulate the taking of testimony before grand juries in respect to criminal accusations of the grade of felony," respectfully dissent from the report recommending that the bill do not pass, because they believe that if said bill should become a law, that false accusations of offenses of the grade of felony would be less frequent in our courts; that the good name of good citizens would be more securely guarded from the malicious attacks of corrupt persons through the grand jury; that persons accused of felony would be more frequently convicted; and that fewer bills of indictment would be presented by grand juries, and hence a diminution of expenses on the counties.

The undersigned therefore recommend that said bill do pass.

S. B. COOPER,
W. K. HOMAN,

Senator Lair introduced a bill entitled "An act to provide for the payment of all outstanding ten per cent interest treasury warrants of the State of Texas, which were issued in payment for services rendered prior to January 28, 1861." Referred to Committee on Public Debt.

Senate bill No. 12 entitled "An act to amend articles 111 and 112 of chapter 5 of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' passed at the regular session, A. D. 1879," was taken up, read second time, and pending committee amendment adopted.

Senator Gooch moved to amend by adding after the last word, "The county clerk shall be entitled to twenty-five cents for issuing the license, to be paid by the person to whom it is issued."

Senator Houston moved to strike out "twenty-five" from Senator Gooch's amendment and insert "ten." Accepted by Senator Gooch.

Senator Buchanan of Grimes moved to amend the amendment by striking out the words "ten cents" and inserting "fifty cents." Lost.

Senator Harris moved to amend the amendment by striking out "ten cents" and insert "nothing." Lost.

The amendment of Senator Gooch was adopted.

Senator Houston moved the previous question on the engrossment of the bill. Motion seconded and main question ordered.

Bill ordered engrossed by the following vote:

YEAS—22.

Buchanan of Grimes	Henderson,	Patton,
Buchanan of Wood,	Hightower,	Powers,
Burges,	Lair,	Stewart,
Cooper,	Lane,	Stubbs,
Davenport,	Lightfoot,	Terrell,
Duncan,	Martin of Cooke,	Weathered,
Gooch,	Moore,	Wynne.
Harris,		

NAYS—6.

Houston,	Rainey,	Swain.
Martin of Navarro,	Shannon,	Tilson.

Senate bill No. 14, entitled "An act to prevent drunkenness and temporary insanity produced by the excessive use of ardent spirits from being plead in courts of justice in justification of criminal offenses," was taken up and read second time.

Senator Duncan moved that the consideration of the bill be postponed, and made special order for Tuesday next, just after the morning call. Adopted.

On motion of Senator Burgess, 100 copies were ordered printed.

Senate bill No. 16, entitled "An act to amend article 4205, chapter 9, title 84, of the Revised Civil Statutes of the State

of Texas, adopted February 21, 1879," was taken up and read second time, with substitute of committee.

On motion of Senator Stewart, the substitute of committee was adopted.

Senator Lane offered the following amendment: Amend by adding the following provision after the word "section" in the last line of the article:

Provided, That no railroad company which shall have borrowed money from the State, belonging to the permanent school fund, or any railroad company in which has been merged a railroad company which shall have heretofore borrowed money from the State belonging to the permanent school fund, and shall have made default in the payment of the interest thereon, or shall claim to be entitled to credit on such interest or principal of said debt, by reason of payments by said railroad company in State treasury warrants, in the years 1864, 1865, 1866 and 1867; and no railroad company having heretofore borrowed money from the State, belonging to the permanent school fund, shall be entitled to the benefit of this section, without first filing with the Comptroller of Public Accounts, a written disclaimer of the validity of such treasury warrants and payments; and that such railroad company claims no credit or credits on such indebtedness for any and all payments made in State treasury warrants."

Senator Stewart raised the point of order, that the amendment proposed was not germane to the bill, and was out of order. Overruled.

Senator Burges moved that the bill be postponed till Thursday next, and be made the special order of that day, just after the morning call; and that one hundred copies of substitute, with report and amendment, be ordered printed. Adopted.

Senate Bill No. 20, entitled "An act to amend chapter 4, title 9, of an act entitled 'an act to adopt and establish a Penal Code, and a Code of Criminal Procedure for the State of Texas,' passed by the Sixteenth Legislature," was taken up and read second time.

Senator Henderson offered the following amendment:

"Strike out in the latter part of section 1, 'he shall be punished by close confinement in the county jail for a period of not less than three months nor more than six months,' and to insert instead thereof, 'he shall be punished by a fine of not less than twenty-five dollars, and by close confinement in the county jail not less than ten days and not exceeding three months.'"

"And to strike out in the latter part of section 3, 'he shall be punished by close confinement in the county jail for not less than six months and more than one year, and to insert instead thereof, 'he shall be punished by a fine of not less than fifty dollars, and by close confinement in the county jail of not less than ten days and not exceeding six months.'"

Senator Powers moved to amend by adding after the word "Indians" at the end of section —, "or other bands of lawless persons."

Senator Duncan moved that the bill and amendments be postponed till Monday next, just after the morning call, and made the special order. Carried.

Senate bill No. 21, entitled "An act to amend article 1587, title 32, chapter 12, of the Revised Civil Statutes of the State of Texas," was taken up and read second time. Bill ordered engrossed.

Senate bill No. 22, being "An act to amend articles 355 and 356, of an act entitled 'an act to adopt and establish a Penal Code for the State of Texas,' " was taken up and read second time.

Senator Buchanan of Grimes, moved to amend article 355 of bill, by inserting in second line after the word "cards," the following, "or at any game with dice." Lost. Bill ordered engrossed.

Senate bill No. 23, entitled "An act to amend article 2266, chapter 4, title 38, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature," was taken up and read second time, with committee amendment.

On motion of Senator Houston, bill was postponed till next Monday morning, and made special order just after the first

special order thereof, and one hundred copies ordered printed.

A message was received from the House informing the Senate of the passage by the House of the concurrent resolution "That Margaret Scott be permitted to keep a lunch stand in the basement of the Capitol building, under such restrictions as the Commissioner of Insurance, Statistics and History may see proper to impose."

Senate bill No. 26, entitled "An act to amend article 4752, chapter 4, title 95, of the Revised Civil Statutes, adopted February 21, 1879," was taken up and read second time, with committee amendment.

Senator Gooch moved to amend committee amendment by adding: "And further provided, that if no publisher of a newspaper in the county will contract to advertise on the terms herein prescribed, the advertisement shall be posted." Adopted.

On motion of Senator Martin of Cooke, the following amendment was adopted: Amend by striking out in the first section the words "some newspaper published in the county," and inserting instead thereof the words "the newspaper having the largest circulation in the county."

Committee amendment adopted as amended.

Senator Houston, chairman of Committee on Constitutional Amendments, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 21, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Constitutional Amendments, to whom was referred Senate joint resolution No. 15, "Joint resolution proposing an amendment to section 1 of article 6 of the Constitution of the State of Texas, relating to suffrage," have had the same under consideration, and a majority of the committee instruct me to report the same back, and recommend that it do not pass.

HOUSTON, Chairman.

Bill read first time.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have examined Senate bill No. 5, being "An act to give orders of sale foreclosing certain claims of liens upon real estate the force and effect of writs of possession;" also Senate bill No. 34, being "An act amending article 4609, chapter 4 of the Revised Civil Code, approved February, 1879;" also, Senate bill No. 62, being "An act making an appropriation of \$200 for the purpose of having the State of Texas personally represented at the meeting of the trustees of the Peabody fund, at Washington City D. C., on the second day of February, 1881," and find said bills correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senator Stubbs, by leave, introduced a bill entitled, "An act for the protection of oysters and fish in salt and tide-waters, affixing penalties, and providing for appointment of commissioner." Referred to Committee on Commerce and Manufactures.

The President, after reading the caption thereof, signed "Senate Joint Resolution No. 4, regarding the port of Galveston."

On motion of Senator Houston, Senate adjourned till Monday morning at 10 o'clock.

TWELFTH DAY.

SENATE CHAMBER,
AUSTIN, January 24, 1881- }

Senate met pursuant to adjournment, Lieutenant-Governor Storey in the chair.

Roll called—quorum present.

Prayer by the Chaplain.

On motion of Senator Tilson the reading of the journal of Saturday was suspended, and same adopted.

Senator Martin of Navarro, chairman of Committee on

Public Roads, Bridges and Ferries, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 24, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Roads, Bridges and Ferries, to whom was referred Senate bill No. 44, a bill to be entitled "An act to amend article 375, chapter 4 of title 17, of the Revised Civil Statutes of the State of Texas, relating to the powers of the councils of cities and towns over the streets, alleys and public grounds," have had the same under consideration, and instruct me to report the same back, and recommend that it do pass.

MARTIN, of Navarro, Chairman.

Bill read first time.

Senator Henderson, chairman of Committee on State Asylums, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 24, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on State Asylums, to whom was referred the message of his Excellency the Governor relative to the removal of General H. E. McCulloch as Superintendent of the Texas Institution for the Deaf and Dumb, and appointment of Colonel Jno. S. Ford as his successor, beg leave to report that they have considered the same, and I am instructed to report that said action of his Excellency was in conformity with law, and requires no further action on the part of the committee.

HENDERSON, Chairman.

Report read and adopted.

Senator Stewart offered a "Joint resolution amending section 11 of article 1 of the Constitution of the State of Texas." Referred to Committee on Constitutional Amendments.

Senator Stubbs introduced a bill entitled "An act to authorize and require nine members of the jury concurring in the trial of civil cases in the district courts to render a verdict." Referred to Judiciary Committee No. 1.

Senator Martin of Cooke introduced a bill entitled "An act to amend article 2395 of chapter 3 of title 42 of an act to adopt and establish the Revised Civil Statutes of the State of Texas, approved February 21, 1879." Referred to Judiciary Committee No. 1.

Senate bill No. 20, entitled "An act to amend chapter 4, title 9, of an act entitled an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," passed by the Sixteenth Legislature," being special order, was taken up—amendment of Senator Henderson pending.

Senator Duncan moved to amend the amendment of Senator Henderson by striking out "ten days and three months," and inserting in lieu thereof "thirty days and six months."

Lost by the following vote:

YEAS—10.

Burton	Harris,	Tilson,
Davenport,	Lair,	Weatherrod,
Duncan,	Powers,	Wynne.
Gooch,		

NAYS—18.

Buchanan of Grimes	Houston,	Patton,
Buchanan of Wood,	Lane,	Rainey,
Burges,	Lightfoot,	Shannon,
Cooper,	Martin of Cooke,	Stewart,
Henderson,	Martin of Navarro,	Stubbs,
Hightower,	Moore,	Swain.

Senator Stubbs offered the following as a substitute for the amendment of Senator Henderson:

"Amend by striking out in the latter part of section 1, 'shall be punished by confinement in the county jail not less than ten days, nor more than three months,' and insert 'shall be punished by confinement in the county jail not less than ten days nor more than three months, or by fine of not less than \$25 nor more than \$200, or both, at the discretion of the jury.'"

Accepted by Senator Henderson.

Senator Gooch proposed to amend Senator Stubbs' substitute by striking out "twenty-five dollars" and inserting "fifty dollars." Adopted by the following vote: